

# High Country News

KNOW THE WEST

## Roots of rebellion: A forum

*Four experts discuss threats to federal public-lands employees and where we go from here.*

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**Tay Wiles** | Oct. 27, 2014 | *From the print edition*

A year ago, *High Country News* Senior Editor Ray Ring and contributor Marshall Swearingen sent out about 100 requests under the Freedom of Information Act, or FOIA, seeking incident reports on threats and violence targeting employees of the federal Bureau of Land Management and the U.S. Forest service. They discovered tens of thousands of pages indicating that threats and violence toward agency employees are fairly common, although seldom reported in the media. On Oct. 8, Tay Wiles and Paul Larmer of *HCN* sat down with four public-land experts to discuss the issue. We asked what inspires these kinds of incidents, why they persist and where we can go from here. The conversation has been edited for length and clarity, and a shorter version appeared in our recent print edition.

*BOB ABBEY – Former director of the Bureau of Land Management.*

*PHIL LYMAN – County commissioner in San Juan County, Utah.*

*JOHN FREEMUTH – Boise State University professor of political science and public policy and administration.*

*JEFF RUCH – Executive director of Public Employees for Environmental Responsibility, which provides legal support for government employees working on environmental and public health issues.*

**Wiles:** Tell us about your experience with public-lands management and these issues we're discussing today.

**Abbey:** I served for over 34 years in public service, with most of that time as an employee of the Bureau of Land Management. I worked in various roles and served in Wyoming, Arizona, Washington, D.C., Mississippi, Colorado and Nevada. I had the distinct pleasure to wrap up my career in public service as the director of the Bureau of Land Management, retiring in 2012.

**Lyman:** I'm a fan of Director Abbey, and he's done some good stuff for us out here in Utah. I'm a county commissioner in San Juan County. We're a county that's only 8 percent private land, so the public land is really important to us, especially access and roads. We're constantly dealing with Forest Service and BLM and trying to protect rights of way that have been there for a long time.

**Ruch:** I run an organization called Public Employees for Environmental Responsibility (PEER). We represent people that work inside these agencies like BLM and the Forest Service, range conservationists, biologists, law enforcement officers. In many instances, we act as shelter for battered staff. With respect to the land management and violence issues, we've been monitoring this and handling cases for the last 20 years.

**Freemuth:** I got into all this when ... I was a ranger at Lake Powell at Glen Canyon. I got a Ph.D. in public policy. I was the science advisory board chair for BLM while such a thing existed. My number-one area of interest is public lands.

**Wiles:** Let's talk about the origins of these types of confrontations between federal land managers and individual public-land users in the West. Could you talk about the creation of the public lands and how it's relevant to where we are today?

**Freemuth:** You can take public-land history back in some ways to Western concern over the establishment of the forest system. People forget that actually several presidents created the current forest system, when they were given that power that was then removed. But people pushed back 110 years ago about that sort of conservation policy. From then on, there have been things that stir up Western anger. The Sagebrush Rebellion was hardly the first time. But usually it had something to do with something like the Federal Land Policy and Management Act, or FLPMA. What's interesting this time is, I don't

see anything particularly in a big policy sense that the federal land agencies have done that would cause Western anger. I could see it in the past, but this time this seems to be driven as much from ideological think tanks from the East rather than bad Western land policy per se.

**Ruch:** Phil, are you being driven by ideological think tanks from the East?

**Lyman:** Well, I wanted to get a little clarification on the ideological think tanks from the East. That kind of struck me, too. I would have thought you'd said maybe ideological think tanks from the West.

**Freemuth:** Well, we know Mountain States Legal Foundation has always been involved. But I've noticed this time that with some of the stuff that's come up in states like Utah, Arizona, Idaho, these sort of various demands to quote "return the federal lands," which is historically and legally probably wrong, but these resolutions were sort of passed in various state legislatures and they were all inspired by ALEC (the American Legislative Exchange Council, a nationwide think tank based in Arlington, Virginia). I'm not diminishing legitimate Western concerns about federal land management, but ... it seemed like this current "we want the federal lands" sort of movement didn't come from any, that I saw, horribly bad federal land event — more that it's part of our politics today, where these ideas were coming from elsewhere and Westerners adopted them.

**Larmer:** The West has been built on the back of a lot of a lot of federal dollars. But (then there were) the regulations that happened in the '60s and '70s, NEPA (the National Environmental Policy Act) and the Endangered Species Act. Then FLPMA in the '70s. These were all direct laws that tightened the conservation focus on these lands. So I guess you're confirming that indeed that was part of it, but you're not seeing it now.

**Freemuth:** Yeah, I could totally understand why Westerners, especially, felt that regarding the BLM lands that they had quote a "promise" that those lands would eventually be disposed of. And then when FLPMA was passed, it made it clear that the federal BLM lands would remain under federal management. I

think that sort of set off the Sagebrush Rebellion. I just simply contrast that with our current era, and I never saw an event like that which made Westerners angry.

**Wiles:** So, sticking with the historical perspective for a moment here. Bob Abbey, would you comment: Are there any other key moments in our nation's history and the history of the West that lead to where we are right now on these issues?

**Abbey:** Controversy between citizens in the Western states and the federal government really isn't anything new. The West has depended on and resented Washington, D.C., involvement in its activities since the first settlers. ... My first exposure to the Sagebrush Rebellion was in the early 1980s. The emotions were really set off by the Federal Land Policy and Management Act in 1976, where for the first time in many years or probably forever, many state legislators as well as members of the public in Western states were told through the passage of this law that it would be the intent of federal government to retain most of these public lands. If you look at the passage of FLPMA and the cumulative effects of all the other environmental laws that were also being passed in the 1970s, I believe it was a combination of all these things coming together that put the emotions at a fever pitch.

Tactics back in the '80s were very similar to what we're seeing today. They ranged from legal challenges of federal authority to outright defiance of federal law. During that period back then, we saw state legislatures pass laws laying claim to millions of acres of federal land within their borders. (Public) concerns ranged from administrative processes that contained too much red tape to stubborn and inefficient bureaucracies and needless interference in daily activities. Many of those citizens were accustomed to being able to do without any permit or authorizations.

**Ruch:** But these laws are 40 and 50 years old. (What) is going on recently is sort of a combination of a healthy dollop of political opportunism, but more importantly a thick crust of resource scarcity. BLM has been avoiding really enforcing these laws particularly in recent years to the point where the Cliven Bundy situation (<https://www.hcn.org/issues/46.8/the-blm-vs-cliven-bundy->

timeline) is just outrageous as to how lax it is. The agencies bend over backwards not to enforce the law. And to some extent, some of these tensions are, in our view, self-imposed from BLM not doing its job.

**Abbey:** I think (these laws) have been enforced. I don't think they've been enforced *consistently* from office to office or state to state. ... But I also agree that the political rhetoric today does lead to animosity and increased tension, and there is a belief because of that rhetoric that it's OK to do certain things outside the law and some people believe that they're going to get away with it.

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**Ruch:** The last cycle was in the '90s, and it was capped by the Oklahoma City bombing. That's what cooled the rhetoric. But you had a similar involvement by public officials encouraging acts of defiance and characterizing federal employees, range cons and other people like that, from the same towns, as "jackbooted thugs" and making comparisons to Nazi Germany (<http://www.sltrib.com/sltrib/politics/58221221-90/blm-county-federal-law.html.csp>).

**Freemuth:** You do find that there have always been incidents for as long as those agencies existed, if not longer. The rhetoric might be worse than it's ever been today. And I'd like to hear from other people, especially from Phil: Are on-the-ground managers making more decisions that concern you, or is it occasionally a bad decision gets people upset but you're alright dealing with more or less the local land managers on the ground? ... Has that changed, in your opinion?

**Lyman:** My perspective is maybe it's unique being in the West, I don't know. I've seen a change in the BLM and with the Forest Service and the approach they take. For example, the Forest Service now, when they close the road, they

say, "It's part of our 1991 travel plan." People say, "If it was passed in '91, why are you doing it now?" "Well, we just hadn't gotten around to it until now." And that gets people frustrated. It's an emotional issue. At the local level, we get along well with most of our local BLM. We get to know them, their families. But I'm speaking from my office in Blanding, Utah, which was the site of the raids in 2009, with the 140 federal agents (investigating the theft of Native American artifacts from public land), pulling people out of their homes in shackles early in the morning and they say they were breaking the law, but that kind of stuff is not good for relationships. That show of force frightens people.

In response to whether this is heating up more recently, I go back and read some of the things that were written 30, 40, 50 years ago by some of the San Juan County commissioners, and I see the same thing. And this notion of the equal footing doctrine (<http://www.ffsl.utah.gov/index.php/state-lands>) for states and the Enabling Act of the state of Utah (<https://www.hcn.org/issues/46.18/western-states-eye-federal-lands-again>), I see that in writings. It sounds like you're reading something that was written last week, but you look at the date and you find out it was written 50 or 100 years ago.

I don't know what ALEC is. I've never been associated with them. I do know where I get some of the information is from some local people here in Utah that write about some of this stuff. I go back and look at the Constitution and try to make my own interpretation.

**Ruch:** I wanted to pick up a small thread of that before it got away. A number of people inside the law enforcement programs of both the Forest Service and BLM are probably even worse critics than you are, Phil, of the way those programs are being managed. I don't know whether it's a function of coincidence or the fact that both programs are stove-piped and separated from the chains of command of the agency. But both of those programs are in need of dire reform. I think you'd find the field officers on the ground standing with you.

**Lyman:** You're right, and I have seen that. There are some that ideologically are 180 degrees from where we're at, but for the most part, we have friends in the BLM, especially at the local level.

**Ruch:** We hear of a cultural war within these law enforcement branches of basically new cops, a lot of ex-military being hired, who suddenly treat where they are as if they're on the streets of Iraqi and Afghani towns, as opposed to people that get into this because they're interested in resource management and conservation.

**Larmer:** Phil, you partook in the Recapture Canyon ride not too long ago. Tell us about why you did that and how it might relate to what we've been talking about.

**Lyman:** You probably know the BLM along with the Justice Department has filed criminal charges against me and four others, so I have to be a little bit careful about what I say.

We're on the rim of Recapture Canyon, so it's not remote. There's a reservoir that was built in 1986 with a dam and a lot of archaeological clearance and a pipeline from that reservoir that extends about four miles south down the canyon. It's got a pipeline maintenance road on that disturbance and it's been torn up. For the purposes of the protest (<https://www.hcn.org/articles/is-san-juan-countys-phil-lyman-the-new-calvin-black>), we rode to the end of that pipeline road with the permission of the water conservancy district who manages that, turned around and rode back. We picked up a lot of publicity because it came on the heels of what happened down in Bunkerville (in Nevada, with Cliven Bundy). That was an unfortunate association because ours was so, so different.

I feel for the Bundy family when I look at what they were going through. Ryan Bundy came, and I told him, "If you go on that trail, it's going to look like you're here for the purpose of conflict and that's not what we're about. You've got your livelihood at stake, and we're talking about a few miles of dirt road that the BLM did not follow their process on. We're challenging that closure." So it picked up this whole tenor from Bunkerville, and it was certainly not that.

But what spurred that was an emergency closure. I've been sitting in meetings for eight years now with the BLM on Recapture — I or my predecessor as a commissioner — and it says right in the instruction memorandum that it's a two-year closure, yet we're going on seven years. All we get (from the BLM) is, "We're close, we're almost finished." I said, "It seems like the ones that sue the BLM are the ones that get all the attention. And the counties are trying to look after our own people and we're not getting any of the resources devoted." The area manager said, "Sorry, that's just the way it is." We were going to do a peaceful protest. The district granted us permission, and it just kind of took on a different flavor.

**Ruch:** And you never got an explanation for eight years?

**Lyman:** No. The initial right-of-way application was filed in March 2006. We're talking about 13 miles of trail. As we got into the process, we found some sensitive archaeology at the south end, so that was dropped from the application, with the assurance we could open up that loop and the city of Blanding would be able to market it to tourists and it would be useable. So we dropped that seven miles, and that was more than seven years ago. And still no action.

**Abbey:** Yeah, there has to be more timely decisions. (In some cases) the agency would rather defer than make that decision and stand by it. ... I think it's to some degree a fear of litigation. That's been one of the biggest changes in my career. From 2008 to 2012, there were over 250 lawsuits filed against Bureau of Land Management. One result is the inability of the agencies to move forward in a more timely manner and issue decisions and stand up to what the decisions reflect.

At the same time ... there are some members of Congress who are going out of their way to see that these agencies fail. To create their own sense of conflict, but also through reduced budgets. And if the agencies can't respond in a timely way to proposals like that, it does lead to frustrations and discontent.

**Wiles:** Jeff Ruch, would you tell us about the documentation project PEER has been working on and trends you've noticed pertaining to threats to federal employees?



**Ruch:** I wanted to note as someone who brings lawsuits against these agencies, the only way these small nonprofit groups can afford to bring them is to win the suits, which means that the suits are an indication of agency dysfunction, not a cause of it. What we've been doing is since the Oklahoma City bombing, we've been FOIA'ing each natural resource agency for records of threats and violence against their people and facilities. In the early period, very few agencies report or even kept track of it. The tracking is getting better. Now, agencies like the Forest Service, they're reporting 400 or 500 incidents a year, whereas a few years ago with the same level of violence, if not more, they were reporting 30 or 40.

The incident that will stick with me was with Guy Pence, a district ranger in Nevada, and the issue was grazing. His office was firebombed (<https://www.hcn.org/issues/33/970>) and his truck in front of his house was firebombed. And the Forest Service for his own safety moved him to the regional office in Boise, which was closed immediately for a bomb threat. We likened it to moving a burn victim into a match factory. During those periods, the agency sort of had a "don't ask, don't tell" approach. These incidents were going on, but they didn't want them reported.

**Freemuth:** I want to add to this that the agency's funding has been cut quite a bit over the last few years. I think Bob's onto something that there are people who have a strategy to so weaken and defund the agencies, they become incapacitated, and then it's easy to make the argument that they can't get anything done. But I think we're not going to see the agencies get the funding maybe they should get, given the political climate.

**Ruch:** In the Cliven Bundy incident, we were unable to discern what the agency plan was. So we FOIA'ed the agency. We're now in federal court battling a mum BLM that's about to be forced to give them to us.

**Larmer:** You talked about the agencies not reporting these incidents but now doing a better job of that. Are threats — everything from hurling an insult to hurling a Molotov cocktail — as ubiquitous as it was in the '90s or is it a matter of reporting?

**Ruch:** That's hard to tell. In the '90s, it culminated in the Oklahoma City bombing. But right before then, members of Congress were encouraging people to take action. There was a road closure on the cover of *TIME* magazine. It was like the issue was trying to evolve to its logical conclusion, but once people saw where it was going, everyone backed away from it. And that appears to be the dynamic (now).

**Lyman:** (With the BLM) we get a new area manager every two years and a regional manager and state directors and people who just show up.

**Ruch:** Can you blame them for not staying?

**Lyman:** I don't know why they switch so often.

**Freemuth:** Historically, this all stems from a philosophy that Gifford Pinchot started in the Forest Service that you wanted to move agency professionals so they wouldn't marry the natives, literally, and would be closer to the agency rather than the community they're in. So they do move a lot. I think a lot of us today would say that, unfortunately, that needs to be rethought.

**Lyman:** It's not that we resent Washington, D.C. It's that they just don't know what we're dealing with here. You take a rancher who's been ranching the same piece of ground for generations and a range con who comes in and tells him, "Nope, your grass is overgrazed, you've got to get off." They're looking at it and saying, "No, it's not overgrazed. This is the rye grass and you're talking about the bent grass." They know more about it than the range con, yet they get this authoritative response.

**Ruch:** But there's almost a fiction here that something's not going on on-the-ground. There's been three years of crippling drought, and when you talk to people both inside and outside the agencies, they'll tell you these lands have been abused. It's just getting worse. By BLM's own limited records, a third of their allotments don't meet minimum standards — an area the size of Alabama.

**Lyman:** Are you saying that the ranchers are disingenuous when they say that their grass is sufficient to maintain their cattle?

**Ruch:** I think what (some ranchers) are saying is, “This is the way we’ve always done it. And we’ve seen it worse.” And that may be true, but that’s still abuse of the land. That’s why these environmentalists are winning these suits, because the conditions out there are so god-awful.

**Lyman:** I don’t know a single rancher that wants to abuse his own grazing allotment, because it’s his livelihood. He’s got more incentive to take care of it than anybody.

**Ruch:** Not as private land. People are much more careful with the private land where they have to pay full market rate than they are with the public land where it’s basically free.

**Lyman:** I admit it is cheap to operate on federal land. That’s a huge benefit, and I think it was given to them through the Taylor Grazing Act.

**Ruch:** But it’s now treated as a right and not a privilege.

**Lyman:** Yeah, it’s one of those things — Well, ah —

**Ruch:** And it *is* a privilege.

**Larmer:** We want to turn you a bit more toward solutions. Do you have examples of where things are actually working between federal employees and locals?

**Ruch:** If you look at the contrast in states like Washington, Oregon and California, and the level of cooperation and joint action between federal and state, it’s night and day a couple of states over. That signals to me that what’s going on is a fundamental ideological split. It’s hard to collaborate with somebody who doesn’t *want* to plan, who believes that things should be open regardless of the resource damage.

**Abbey:** I would add despite all the divisive rhetoric, I found that we have much more in common than differences when it comes to how public lands should be managed. We allow our minor differences to be barriers to accomplishing our mutual goals. We need to engage in a lively debate but remain focused on how much we hold in common.

**Larmer:** The violence we're seeing today may or may not be more than in the past, but it persists and seems to have an ideological overtone. Is this a cyclical thing or are we in new territory here?

**Freemuth:** I think it'll stay contentious for a while; it's just the nature of it. There's enough people right now of the persuasion to keep the fight going, like Ken Ivory in Utah (<https://www.hcn.org/issues/46.18/western-states-eye-federal-lands-again>), who want to keep this revved up. Little successes will help, but I think we're in for it for a while. *\*(Correction: In the print edition, this quote was attributed to Jeff Ruch.)*

**Abbey:** I don't see the solutions coming out of Washington, D.C. The burden falls on all of us as public-land stakeholders, of trying to put our differences to the back of the room. Having said that, it's important that there's repercussions for Mr. Bundy and his people. Without repercussions, we're going to continue to see copycats. I was disappointed in the tactics that were deployed by the Bureau of Land Management in that impoundment; there could have been a different outcome. But having said that, there were laws that were broken; there were lives that were threatened and there have to be consequences for that. I'm looking at the federal judge to issue a decision sooner rather than later. Something needs to take place against those people who threatened those federal employees.

**Ruch:** But, Bob, your comments also underline the fact that D.C. has to be involved in the form of agency leadership. If there's not agency leadership from the top, the middle managers are going to be left hung out to dry in the same sort of paralysis as you're seeing now.

**Abbey:** You're absolutely right. After the fiasco with Mr. Bundy, there was nobody in the agency willing to answer questions.

**Ruch:** Or right now, (BLM District Manager) Doug Furtado at Battle Mountain — there's a national demonstration calling for his removal; I haven't heard anyone from BLM saying, "We endorse what he did and we're going to stand behind him." It's almost like they're going to say, "We'll see how much of a dent you can make, and maybe we'll get rid of him."

**Abbey:** There is that fear among the agency employees that leadership will not stand behind them for making difficult decisions, and that needs to change.

*Editor's note: If you would like to submit a tip or report to HCN about a threat to a federal public-land employee, see our [tipster form here](https://www.hcn.org/events/west-confrontations/tips) (<https://www.hcn.org/events/west-confrontations/tips>).*

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